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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/822,797	03/30/2001	Teruhiro Yamada	263/126	9136

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EXAMINER

SALL, EL HADJI MALICK

ART UNIT PAPER NUMBER

2157

DATE MAILED: 08/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/822,797

Applicant(s)

YAMADA ET AL.

Examiner

El Hadji M Sall

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

**1. DETAILED ACTION**

This action is responsive to the application filed on March 30, 2001. Claims 1-18 are pending. Claims 1-18 represent Method and apparatus for distributing software and user terminal using the same.

**2. *Claim Rejections - 35 USC § 102***

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

**3.** Claims 1; 2, 4, 6, 8, 9, 11, 12-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Carmel et al. U.S. 6,389,473.

Carmel teaches the invention as claimed including network media streaming (see abstract).

As to claim 1, Carmel teaches a method of distributing software to a user terminal, comprising;

decomposing the software into a plurality of recombinaable segment data (column 2, lines 4-6, Carmel discloses the data stream is divided into a sequence of segments of slices of the data...; column 10, lines 47-49, Carmel discloses...client 30 reconstructs and outputs the multimedia data for the appreciation of a user);

registering a plurality of the segment data to a predetermined site (column 2, lines 23-24, Carmel discloses the segments or slices may all be contained in a single indexed file);

detecting linkage of the user terminal to the site (column 8, lines 1-7, Carmel discloses when one of computers 30 connects to server 36 and begins to download the data stream, it first reads the index file in order to identify at what point in stream 40...);

transmitting each of a plurality of the segment data to the user terminal in a sequence every time the linkage is detected (column 8, lines 1-7, Carmel discloses...to begin and to start receiving the data stream substantially in real time...as it is transmitted from computer 34).

As to claim 2, Carmel teaches an apparatus for distributing software to a user terminal, comprising:

a dividing unit which decomposes the software into a plurality of recombinaable segment data (column 2, lines 4-6, Carmel discloses the data stream is divided into a sequence of segments of slices of the data...; column 10, lines 47-49, Carmel discloses...client 30 reconstructs and outputs the multimedia data for the appreciation of a user);

a site registration unit which supervises a link state between the user terminal and the site (column 2, lines 23-24, Carmel discloses the segments or slices may all be contained in a single indexed file);

a link monitor which supervises a link state between the user terminal and the site (column 8, lines 1-7, Carmel discloses when one of computers 30 connects to server 36 and begins to download the data stream, it first reads the index file in order to identify at what point in stream 40...);

a data transmission unit which selects unsent data from a plurality of the segment data every time the user terminal is linked to the site, and transmits the unsent data to the user terminal (column 8, lines 1-7, Carmel discloses...to begin and to start receiving the data stream substantially in real time...as it is transmitted from computer 34).

As to claim 4, Carmel teaches an apparatus according to claim 2, wherein said dividing unit subdivides the software into a data size to the degree that the user is unaware of the downloading thereof, and

wherein said data transmission unit transmits a plurality of the segment data to the user terminal without notifying the user terminal of the data transmission (column 5, lines 29-31, Carmel discloses...one or more client computers include a plurality of client computers, which download the sequence substantially simultaneously).

As to claim 6, Carmel teaches an apparatus according to claim 2, wherein when the user terminal is linked to the site, said link monitor confirms with a user as to whether or not transmission of a plurality of the segment data is permitted (column 2, lines 51-56, Carmel teaches...the transmitting computer and the clients monitor the uploading and downloading of data to and from the server, respectively, in order to determined the amount of time required to convey each slice and to verify that the slices are conveyed at a sufficient rate).

As to claim 8, Carmel teaches an apparatus according to claim 4, wherein when the user terminal is linked to the site, said link monitor confirms with a user as to whether or not transmission of a plurality of the segment data is permitted (column 2, lines 51-56, Carmel teaches...the transmitting computer and the clients monitor the uploading and downloading of data to and from the server, respectively, in order to determined the amount of time required to convey each slice and to verify that the slices are conveyed at a sufficient rate).

As to claim 9, Carmel teaches an apparatus according to claim 2, wherein said site registration unit registers each of a plurality of the segment data to a plurality of web pages included in the site in a distributed manner (column 2, lines 60-63, Carmel discloses...the transmitting computer and/or the clients each open a plurality of FTP or HTTP links, respectively, with the network server. The slices are transferred over different ones of the links in alternation).

As to claim 11, Carmel teaches an apparatus according to claim 4, wherein said site registration unit registers each of a plurality of the segment data to a plurality of web pages included in the site in a distributed manner (column 2, lines 60-63, Carmel discloses...the transmitting computer and/or the clients each open a plurality of FTP or HTTP links, respectively, with the network server. The slices are transferred over different ones of the links in alternation).

As to claim 11, Carmel teaches an apparatus according to claim 6, wherein said site registration unit registers each of a plurality of the segment data to a plurality of web pages included in the site in a distributed manner (column 2, lines 60-63, Carmel discloses...the transmitting computer and/or the clients each open a plurality of FTP or HTTP links, respectively, with the network server. The slices are transferred over different ones of the links in alternation).

As to claim 13, Carmel teaches a user terminal comprising:

a link processor which establishes a link with a registered site of a plurality of segment data, every time the user terminal is linked to a network, where software is decomposed in a recombinable format (column 11, lines 1-8, Carmel discloses each client 30 connects to the server, generally using a single HTTP link...server 36 begins to transmit data slices at the chosen quality level. The slices are received, decoded and output by the client)

a data receiving unit which downloads from the registered site at least a single set among a plurality of the segment data (see abstract, Carmel discloses...the slices

are encoded in a corresponding sequence of files...such that one of more client computers can download the sequence over the network...).

As to claim 14, Carmel teaches a user terminal according to claim 13, wherein said link processor establishes a link with the registered site every time the user terminal accesses any of a plurality of web pages included in a predetermined related site (column 2, lines 60-62, Carmel discloses the transmitting computer and/or the clients each open a plurality of FTP or HTTP links, respectively, with the network server).

As to claim 15, Carmel teaches a user terminal according to claim 13, further comprising:

a data storage unit which stores installed software (abstract, Carmel discloses...client computers...);

and an installation processor which, when said data receiving unit downloads all of a plurality of the segment data, recombines the segment (column 3, lines 40-42, Carmel discloses...dividing the stream into the sequence of slices includes dividing the stream into a sequence of time slots...; column 3, lines 63-67 to column 4, lines 1-2, Carmel discloses...the one or more client computers decode the sequence and play back the data stream responsive to the indices of the files, at a replay rate generally equal to the data rate).

As to claim 16 Carmel teaches a user terminal according to claim 13, further comprising:

a data storage unit which stores installed software (abstract, Carmel discloses...client computers...);

and an installation processor which, when said data receiving unit downloads all of a plurality of the segment data, recombines the segment (column 3, lines 40-42, Carmel discloses...dividing the stream into the sequence of slices includes dividing the stream into a sequence of time slots...; column 3, lines 63-67 to column 4, lines 1-2, Carmel discloses...the one or more client computers decode the sequence and play



back the data stream responsive to the indices of the files, at a replay rate generally equal to the data rate).

As to claim 17, a user terminal according to claim 13, wherein the segment data to be downloaded by said data receiving unit is in a form operable at user side (column 3, lines 63-67 to column 4, lines 1-2, Carmel discloses...the one or more client computers decode the sequence and play back the data stream responsive to the indices of the files, at a replay rate generally equal to the data rate).

As to claim 18, a user terminal according to claim 13, wherein a downloading form is selectable between a segment form and a non-segment form according to a user's environment (column 2, lines 51-56, Carmel teaches...the transmitting computer and the clients monitor the uploading and downloading of data to and from the server, respectively, in order to determined the amount of time required to convey each slice and to verify that the slices are conveyed at a sufficient rate).

**4. Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**5.** Claims 3, 5, 7, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carmel et al. U.S. 6,389,473 in view of Liu U.S. 5,953,005.

Carmel teaches the invention substantially as claimed including network media streaming (see abstract).

As to claim 3, Carmel teaches an apparatus according to claim 2.

Carmel fails to teach further comprising an encryption unit which encrypts the software, wherein said dividing unit decomposed the encrypted software into a format of segment data such that the software is allowed for installation only when all segment data are recombined (column 3, lines 40-42, Carmel discloses...dividing the stream into the sequence of slices includes dividing the stream into a sequence of time slots...; column 3, lines 63-67 to column 4, lines 1-2, Carmel discloses...the one or more client computers decode the sequence and play back the data stream responsive to the indices of the files, at a replay rate generally equal to the data rate).

However, Liu teaches system and method for on-line multimedia access. Liu teaches further comprising an encryption unit which encrypts the software, wherein said dividing unit decomposed the encrypted software into a format of segment data such that the software is allowed for installation only when all segment data are recombined (column 3, lines 27-31, Liu discloses...an applet including encrypted and unencrypted data and instructions will be delivered to the user's computer system to enable the user to make choices...to a remote server for delivery of multimedia content).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Carmel in view of Liu to introduce an encryption unit which encrypts the software, wherein said dividing unit decomposed the encrypted software into a format of segment data such that the software is allowed for installation only when all segment data are recombined. One would be motivated to do so to prevent unauthorized users to download data from the server.

As to claim 5, Carmel teaches an apparatus according to claim 3,  
wherein said dividing unit subdivides the software into a data size to the degree that the user is unaware of the downloading thereof, and

wherein said data transmission unit transmits a plurality of the segment data to the user terminal without notifying the user terminal of the data transmission (column 5, lines 29-31, Carmel discloses...one or more client computers include a plurality of client computers, which download the sequence substantially simultaneously).

As to claim 7, Carmel teaches an apparatus according to claim 2, wherein when the user terminal is linked to the site, said link monitor confirms with a user as to whether or not transmission of a plurality of the segment data is permitted (column 2, lines 51-56, Carmel teaches...the transmitting computer and the clients monitor the uploading and downloading of data to and from the server, respectively, in order to determined the amount of time required to convey each slice and to verify that the slices are conveyed at a sufficient rate).

As to claim 10, Carmel teaches an apparatus according to claim 3, wherein said site registration unit registers each of a plurality of the segment data to a plurality of web pages included in the site in a distributed manner (column 2, lines 60-63, Carmel discloses...the transmitting computer and/or the clients each open a plurality of FTP or HTTP links, respectively, with the network server. The slices are transferred over different ones of the links in alternation).

## **6. Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to El Hadji M Sall whose telephone number is 703-306-4153. The examiner can normally be reached on 8:00-4:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 703 308-7562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2157

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

El Hadji Sall  
Patent Examiner  
Art Unit: 2157

ES

  
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PRIMARY EXAMINER